

REFERENCE TITLE: osteopathic board; omnibus

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2268

Introduced by
Representative Stump

AN ACT

AMENDING SECTIONS 32-1800, 32-1802, 32-1803, 32-1804, 32-1821, 32-1822, 32-1829, 32-1855, 32-1861 AND 32-1871, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 17, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1832; RELATING TO THE ARIZONA BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 32-1800, Arizona Revised Statutes, is amended to read:

32-1800. Definitions

In this chapter, unless the context otherwise requires:

1. "Active license" means a valid license to practice medicine AND INCLUDES THE LICENSE OF A LICENSEE WHO HAS BEEN PLACED ON PROBATION OR ON WHOSE LICENSE THE BOARD HAS PLACED RESTRICTIONS.

2. "ADDRESS OF RECORD" MEANS EITHER:

(a) THE ADDRESS WHERE A PERSON WHO IS REGULATED PURSUANT TO THIS CHAPTER PRACTICES MEDICINE OR IS OTHERWISE EMPLOYED.

(b) THE RESIDENTIAL ADDRESS OF A PERSON WHO IS REGULATED PURSUANT TO THIS CHAPTER IF THAT PERSON HAS MADE A WRITTEN REQUEST TO THE BOARD THAT THE BOARD USE THAT ADDRESS AS THE ADDRESS OF RECORD.

~~2-~~ 3. "Adequate records" means legible medical records containing, at a minimum, sufficient information to identify the patient, support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another licensed health care practitioner to assume continuity of the patient's care at any point in the course of treatment.

4. "ADMINISTRATIVE WARNING" MEANS A DISCIPLINARY ACTION BY THE BOARD IN THE FORM OF A WRITTEN WARNING TO A PHYSICIAN OF A VIOLATION OF THIS CHAPTER INVOLVING PATIENT CARE THAT THE BOARD DETERMINES FALLS BELOW THE COMMUNITY STANDARD.

~~3-~~ 5. "Approved fellowship program" means that an applicant for licensure completed training when the hospital or other facility in which the training occurred was approved for fellowship by the American osteopathic association or by the accreditation council on graduate medical education.

~~4. "Approved hospital internship" means that an applicant for licensure completed training when the hospital or other facility in which the training occurred was approved for internship by the American osteopathic association or by the accreditation council on graduate medical education.~~

~~5. "Approved preceptorship" means that an applicant for licensure completed training when the hospital or other facility in which the training occurred was approved for preceptorship by the American osteopathic association or by the accreditation council on graduate medical education.~~

~~6. "Approved residency" means that an applicant for licensure completed training when the hospital or other facility in which the training occurred was approved for residency by the American osteopathic association or by the accreditation council on graduate medical education.~~

~~7-~~ 6. "Approved school of osteopathic medicine" means a school or college offering a course of study that, on successful completion, results in the awarding of the degree of doctor of osteopathy and whose course of study has been approved or accredited by the American osteopathic association.

1 ~~8.~~ 7. "Board" means the Arizona board of osteopathic examiners in
2 medicine and surgery.

3 ~~9. "Completed application" means an application for which the~~
4 ~~applicant has supplied all required fees, information and correspondence~~
5 ~~required by the board on forms and in a manner approved by the board.~~

6 ~~10.~~ 8. "Decree of censure" means a formal written reprimand by the
7 board of a physician for a violation of this chapter that constitutes ~~an~~
8 ~~official~~ A DISCIPLINARY action against a physician's license.

9 9. "DE MINIMIS VIOLATION" MEANS A VIOLATION THAT, ALTHOUGH
10 UNDESIRABLE, HAS NO DIRECT OR IMMEDIATE RELATIONSHIP TO THE PUBLIC SAFETY.

11 ~~11.~~ 10. "Direct supervision" means that a physician is within the same
12 room or office suite as the ~~medical assistant~~ UNLICENSED PERSON in order to
13 be available for consultation regarding those tasks the ~~medical assistant~~
14 UNLICENSED PERSON performs pursuant to section 32-1859.

15 ~~12.~~ 11. "Dispense" means the delivery by a physician of a prescription
16 drug or device to a patient, except for samples packaged for individual use
17 by licensed manufacturers or repackagers of drugs, and includes the
18 prescribing, administering, packaging, labeling and security necessary to
19 prepare and safeguard the drug or device for delivery.

20 ~~13.~~ 12. "Doctor of osteopathy" means a person who holds a license,
21 registration or permit to practice medicine pursuant to this chapter.

22 ~~14. "Full-time faculty member" means a physician employed full time as~~
23 ~~a faculty member while holding the academic position of assistant professor~~
24 ~~or a higher position at an approved school of osteopathic medicine.~~

25 ~~15.~~ 13. "Immediate family" means the spouse, natural or adopted
26 children, father, mother, brothers and sisters of the physician and the
27 natural and adopted children, father, mother, brothers and sisters of the
28 physician's spouse.

29 ~~16.~~ 14. "Inappropriate fee" means a fee that is not supported by
30 documentation of time, complexity or extreme skill required to perform the
31 service.

32 ~~17.~~ 15. "Investigative hearing" means a meeting between the board and
33 a physician to discuss issues set forth in the investigative hearing notice
34 and during which the board may hear statements from board staff, the
35 complainant and the physician.

36 ~~18.~~ 16. "Letter of concern" means an advisory letter to notify a
37 physician that while there is insufficient evidence to support ~~direct~~
38 DISCIPLINARY action against the physician's license there is sufficient
39 evidence for the board to notify the physician of its concern. ~~A letter of~~
40 ~~concern is a public document for five years after it is issued and may be~~
41 ~~used in future disciplinary actions against the physician.~~

42 17. "LIMITED LICENSE" MEANS A LICENSE THAT RESTRICTS THE SCOPE AND
43 SETTING OF A LICENSEE'S PRACTICE.

~~19.~~ 18. "Medical assistant" means an unlicensed person who has completed an educational program approved by the board, who assists in a medical practice under the supervision of a doctor of osteopathic medicine and who performs delegated procedures commensurate with the assistant's education and training but who does not diagnose, interpret, design or modify established treatment programs or violate any statute.

~~20. "Medical peer review" means the participation by a doctor of osteopathy in the review and evaluation of the medical management of a patient and the use of resources for patient care as well as activities relating to a health care institution's decision to grant or continue privileges to practice at that institution.~~

~~21. "Medically incompetent" means that a person lacks sufficient medical knowledge or skills, or both, to a degree likely to endanger the health of patients or fails to obtain a scaled score of at least seventy-five per cent on the written special purpose licensing examination administered by the board.~~

~~22.~~ 19. "Medicine" means osteopathic medicine as practiced by a person who receives a degree of doctor of osteopathy.

~~23.~~ 20. "Physician" means a doctor of osteopathic medicine who holds a license, A PERMIT OR A LOCUM TENENS REGISTRATION to practice osteopathic medicine pursuant to this chapter.

~~24.~~ 21. "Practice of medicine" or "practice of osteopathic medicine" means all of the following:

(a) To examine, diagnose, treat, prescribe for, palliate, prevent or correct human diseases, injuries, ailments, infirmities and deformities, physical or mental conditions, real or imaginary, by the use of drugs, surgery, manipulation, electricity or any physical, mechanical or other means as provided by this chapter.

(b) Suggesting, recommending, prescribing or administering any form of treatment, operation or healing for the intended palliation, relief or cure of any physical or mental disease, ailment, injury, condition or defect.

(c) The practice of osteopathic medicine alone or the practice of osteopathic surgery or osteopathic manipulative therapy, or any combination of either practice.

~~25. "Special purpose licensing examination" means an examination developed by the national board of medical examiners, on behalf of the federation of state medical boards or the national board of osteopathic medical examiners for use by state licensing boards, to test the basic medical competency of physicians who are applying for licensure and who have been in practice in another jurisdiction or to determine the competency of a physician who has not been in practice for a considerable period of time or who is under investigation.~~

1 ~~26-~~ 22. "Specialist" means a physician who has successfully completed
 2 postdoctoral training in an approved fellowship program, an approved
 3 preceptorship or an approved residency or who is board certified by a
 4 specialty board approved by the board.

5 ~~27-~~ 23. "Subscription provider of health care" means an entity that,
 6 through contractual agreement, is responsible for the payment, in whole or in
 7 part, of debts incurred by a person for medical or other health care
 8 services.

9 Sec. 2. Section 32-1802, Arizona Revised Statutes, is amended to read:

10 32-1802. Meetings; organization; compensation

11 A. The board shall hold an annual meeting during the month of January
 12 each year in the ~~city of~~ Phoenix METROPOLITAN AREA and may hold other
 13 meetings at times and places determined by a majority of the board on notice
 14 to each member and the general public pursuant to title 38, chapter 3,
 15 article 3.1. A majority of the members of the board constitutes a quorum,
 16 and a majority vote of a quorum present at any meeting governs all board
 17 actions.

18 B. At each annual meeting the board shall select from among its
 19 membership a president and vice-president who shall serve until their
 20 successors are chosen. If either of these offices becomes vacant before the
 21 annual meeting, the board may elect a replacement at any other board meeting.

22 C. Members of the board are eligible to receive compensation in the
 23 amount of two hundred fifty dollars for each day of actual service in the
 24 business of the board and reimbursement of all expenses necessarily and
 25 properly incurred in attending meetings of the board.

26 D. Board members, the executive director, permanent or temporary board
 27 personnel, board consultants and professional medical investigators are
 28 immune from civil liability for any act they do in good faith to implement
 29 this chapter.

30 Sec. 3. Section 32-1803, Arizona Revised Statutes, is amended to read:

31 32-1803. Powers and duties

32 A. The board shall:

33 1. Protect the public from unlawful, incompetent, unqualified,
 34 impaired and unprofessional practitioners of osteopathic medicine.

35 2. ~~Conduct examinations for applicants for a license under this~~
 36 ~~chapter,~~ Issue licenses, conduct hearings, place physicians on probation,
 37 revoke or suspend licenses, enter into stipulated orders, issue letters of
 38 concern or decrees of censure and administer and enforce this chapter.

39 3. ~~Order and evaluate physical, psychological, psychiatric and~~
 40 ~~competency testing of licensed physicians and candidates for licensure as the~~
 41 ~~board determines is necessary to enforce this chapter.~~

42 4. ~~Initiate investigations and determine on its own motion if a doctor~~
 43 ~~of osteopathic medicine has engaged in unprofessional conduct or provided~~
 44 ~~incompetent medical care or is mentally or physically unable to engage in the~~
 45 ~~practice of medicine.~~

~~5. Enforce, within the osteopathic profession in this state, the standards of practice prescribed by this chapter and the rules adopted by the board pursuant to this chapter.~~

~~6. Collect and account for all fees provided for by this chapter and deposit, pursuant to sections 35-146 and 35-147, all monies received in the appropriate fund.~~

~~7. Charge additional fees for services that the board deems appropriate to carry out its intent and purpose and that do not exceed the costs of rendering the services.~~

~~8.~~ 3. Maintain a record of its acts and proceedings, including the issuance, ~~refusal~~ DENIAL, renewal, suspension or revocation of licenses to practice according to this chapter. The board shall ~~only~~ delete records of complaints ONLY as follows:

(a) If the board dismisses a complaint, the board shall delete the public record of the complaint ~~three~~ FIVE years after it dismissed the complaint.

(b) If the board has issued a letter of concern but has taken no further action ON THE COMPLAINT, the board shall delete the public record of the complaint five years after it issued the letter of concern.

(c) IF THE BOARD HAS REQUIRED ADDITIONAL CONTINUING MEDICAL EDUCATION PURSUANT TO SECTION 32-1855 BUT HAS NOT TAKEN FURTHER ACTION, THE BOARD SHALL DELETE THE PUBLIC RECORD OF THE COMPLAINT FIVE YEARS AFTER THE PERSON SATISFIES THIS REQUIREMENT.

~~9.~~ 4. Maintain a ~~roster~~ PUBLIC DIRECTORY of all osteopathic physicians and surgeons who are OR WERE licensed pursuant to this chapter that includes:

(a) The name of the licensed physician.

(b) The physician's current ~~professional office~~ OR LAST KNOWN address OF RECORD.

(c) The date and number of the license issued to the physician pursuant to this chapter.

~~(d) Whether the license is in good standing.~~

(d) THE DATE THE LICENSE IS SCHEDULED TO EXPIRE IF NOT RENEWED OR THE DATE THE LICENSE EXPIRED OR WAS REVOKED, SUSPENDED OR CANCELED.

(e) ANY DISCIPLINARY ACTIONS TAKEN AGAINST THE PHYSICIAN BY THE BOARD.

(f) LETTERS OF CONCERN, REMEDIAL CONTINUING MEDICAL EDUCATION ORDERED AND DISMISSALS OF COMPLAINTS AGAINST THE PHYSICIAN UNTIL DELETED FROM THE PUBLIC RECORD PURSUANT TO PARAGRAPH 3 OF THIS SUBSECTION.

(g) THE NUMBER OF MALPRACTICE CLAIMS PAID BY AWARD OR BY SETTLEMENT ON BEHALF OF THE PHYSICIAN IN THE LAST TEN YEARS OF PRACTICE IN THIS STATE OR IN ANOTHER STATE.

~~10.~~ 5. Adopt rules regarding the regulation and the qualifications of medical assistants.

~~11. Establish a program that is reasonable and necessary to educate physicians regarding the uses and advantages of autologous blood transfusions.~~

~~12. Review the credentials and the abilities of an applicant whose professional records or physical or mental capabilities may not meet the requirements for licensure or registration as prescribed in article 2 of this chapter in order for the board to determine if the applicant meets the requirements for licensure or registration pursuant to this chapter.~~

~~13.~~ 6. Discipline and rehabilitate osteopathic physicians.

B. The PUBLIC records of the board are open to public inspection at all reasonable times DURING OFFICE HOURS.

C. The board may:

1. Adopt rules necessary or proper for the administration of this chapter.

2. Appoint one of its members to the jurisdiction arbitration panel pursuant to section 32-2907, subsection B.

3. Accept and spend federal monies and private grants, gifts, contributions and devises. These monies do not revert to the state general fund at the end of a fiscal year.

D. The board shall adopt and use a seal, the imprint of which, together with the signature of either the president, vice-president or executive director, is evidence of its official acts.

~~E. In conducting investigations pursuant to this chapter the board may receive and review confidential internal staff reports relating to complaints and malpractice claims.~~

~~F.~~ E. The board may make available to academic and research organizations public records regarding statistical information on doctors of osteopathic medicine and applicants for licensure.

Sec. 4. Section 32-1804, Arizona Revised Statutes, is amended to read:

32-1804. Executive director; compensation; duties

A. The board shall appoint an executive director who is not a member of the board. The executive director shall serve at the pleasure of the board and shall receive compensation as determined pursuant to section 38-611 to be paid from the board fund.

B. The executive director or that person's designee shall:

1. Serve as administrative assistant to the board and manage the board's offices.

2. Collect all monies due and payable to the board.

3. Deposit, pursuant to sections 35-146 and 35-147, all monies received by the board in the appropriate fund.

4. Pay all bills for authorized board expenditures.

5. Administer oaths.

6. Act as custodian of the board's seal, ~~AND books, records, minutes and proceedings.~~

7. Employ special consultants or other agents to make investigations, gather information, review complaints, review malpractice claims, suits and settlements, prepare reports and perform other duties the executive director determines are necessary to enforce this chapter. ~~Compensation for special consultants or agents may be determined on an hourly, daily or case basis but shall not exceed one hundred fifty dollars per day.~~

8. Employ, evaluate, dismiss, discipline and direct professional, clerical, technical, investigative and administrative permanent or temporary personnel necessary to carry out the purposes of this chapter. The personnel are eligible to receive compensation pursuant to section 38-611.

9. Issue licenses, LIMITED LICENSES, registrations, permits, license renewal extensions and ~~exemptions~~ WAIVERS to applicants who meet the requirements of this chapter.

10. Enter into contracts pursuant to title 41, chapter 23 for goods and services that are necessary to carry out board policies and directives.

11. Prepare minutes, ~~records, reports, registries, directories, books and newsletters~~ and records of all board transactions and orders.

12. Prepare a biannual budget.

13. As directed by the board, prepare and submit recommendations for changes to this chapter for consideration by the legislature.

14. Initiate an investigation if evidence appears to demonstrate that a physician may be engaged in unprofessional conduct or may be ~~medically~~ MENTALLY incompetent or physically unable to safely practice medicine.

15. Issue subpoenas ~~if necessary~~ to compel the attendance and testimony of a witness and the production of evidence.

16. As directed by the board, provide assistance to the attorney general in preparing and executing disciplinary orders, rehabilitation orders and notices of hearings.

~~17. Execute board directives.~~

~~18.~~ 17. Represent the board with the federal government, other states and jurisdictions of the United States, this state, political subdivisions of this state, the news media and the public.

18. IF DELEGATED BY THE BOARD, DISMISS COMPLAINTS THAT, AFTER AN INVESTIGATION, DEMONSTRATE INSUFFICIENT EVIDENCE THAT THE PHYSICIAN'S CONDUCT VIOLATED THIS CHAPTER.

19. IF DELEGATED BY THE BOARD, ENTER INTO A STIPULATED AGREEMENT WITH A LICENSEE FOR THE TREATMENT, REHABILITATION AND MONITORING OF THE LICENSEE'S ABUSE OR MISUSE OF A CHEMICAL SUBSTANCE.

20. REVIEW ALL COMPLAINTS FILED PURSUANT TO SECTION 32-1855. IF DELEGATED BY THE BOARD, THE EXECUTIVE DIRECTOR MAY ALSO DISMISS A COMPLAINT IF THE COMPLAINT IS WITHOUT MERIT. THE EXECUTIVE DIRECTOR SHALL NOT DISMISS A COMPLAINT IF A COURT HAS ENTERED A MEDICAL MALPRACTICE JUDGMENT AGAINST A PHYSICIAN. THE EXECUTIVE DIRECTOR SHALL SUBMIT TO THE BOARD A REPORT OF EACH COMPLAINT THE EXECUTIVE DIRECTOR DISMISSES FOR ITS REVIEW AT ITS NEXT REGULAR

1 BOARD MEETING. THE REPORT SHALL INCLUDE THE COMPLAINT NUMBER, THE NAME OF
2 THE PHYSICIAN AND THE INVESTIGATION TIMELINE FOR EACH DISMISSED COMPLAINT.

3 21. IF DELEGATED BY THE BOARD, DIRECTLY REFER COMPLAINTS FOR AN
4 INVESTIGATIVE INTERVIEW.

5 22. IF DELEGATED BY THE BOARD, CLOSE COMPLAINTS RESOLVED THROUGH
6 MEDIATION.

7 23. IF DELEGATED BY THE BOARD, ISSUE LETTERS OF CONCERN OR ORDERS FOR
8 NONDISCIPLINARY EDUCATION, OR BOTH.

9 24. IF DELEGATED BY THE BOARD, ENTER INTO A CONSENT AGREEMENT IF THERE
10 IS EVIDENCE OF DANGER TO THE PUBLIC HEALTH AND SAFETY.

11 25. IF DELEGATED BY THE BOARD, GRANT UNCONTESTED REQUESTS FOR
12 CANCELLATION OF A LICENSE PURSUANT TO SECTION 32-1827.

13 26. IF DELEGATED BY THE BOARD, REFER CASES TO THE BOARD FOR AN
14 INVESTIGATIVE INTERVIEW.

15 27. AS DIRECTED BY THE BOARD, PROVIDE ASSISTANCE TO THE ATTORNEY
16 GENERAL IN PREPARING AND EXECUTING DISCIPLINARY ORDERS, REHABILITATION ORDERS
17 AND NOTICES OF HEARINGS.

18 ~~19.~~ 28. Perform any other duty required by the board.

19 Sec. 5. Section 32-1821, Arizona Revised Statutes, is amended to read:

20 ~~32-1821.~~ Persons and acts not affected by chapter

21 This chapter does not prevent:

22 1. A duly licensed physician and surgeon of any other state, district
23 or territory from meeting a person ~~registered~~ LICENSED pursuant to this
24 chapter within this state for consultation or, pursuant to an invitation by a
25 sponsor, visiting this state for the sole purpose of promoting professional
26 education through lectures, clinics or demonstrations as long as the visiting
27 physician does not open an office, designate a place to meet patients or
28 receive calls relating to the practice of medicine outside of the facilities
29 and programs of the sponsor.

30 2. The practice of any other method, system or science of healing by a
31 person duly licensed pursuant to the laws of this state.

32 3. The practice by physicians and surgeons discharging their duties
33 while members of the armed forces of the United States or other federal
34 agencies.

35 4. Any act, task or function performed by a physician assistant OR
36 REGISTERED NURSE PRACTITIONER in the proper discharge of ~~the physician~~
37 ~~assistant's~~ THAT PERSON'S duties.

38 5. A person administering a lawful domestic or family remedy to a
39 member of that person's ~~own~~ IMMEDIATE family.

40 6. Providing medical assistance in case of an emergency.

41 7. The emergency harvesting of donor organs.

42 Sec. 6. Section 32-1822, Arizona Revised Statutes, is amended to read:

43 ~~32-1822.~~ Qualifications of applicant; application; fees

44 A. On a form and in a manner prescribed by the board, an applicant for
45 licensure shall submit proof that the applicant:

1 1. Is the person named on the application and on all supporting
2 documents submitted.

3 2. Is a citizen of the United States or a resident alien.

4 3. Is a graduate of a board approved school of osteopathic medicine.

5 4. Has completed an approved internship, the first year of an approved
6 multiple year residency or board approved equivalency.

7 5. Has passed the approved examinations for licensure within seven
8 years of application or has the board approved equivalency of practice
9 experience.

10 6. Has not engaged in any conduct that, if it occurred in this state,
11 would be considered unprofessional conduct or, if the applicant has engaged
12 in unprofessional conduct, is rehabilitated from the underlying conduct.

13 7. Is physically, mentally and emotionally able to practice medicine,
14 or, if limited, restricted or impaired in the ability to practice medicine,
15 consents to contingent licensure pursuant to subsection E of this section or
16 to entry into a program prescribed in section 32-1861.

17 8. IS OF GOOD MORAL CHARACTER.

18 B. An applicant must submit with the application the application fee
19 prescribed in section 32-1826 and pay the prescribed license issuance fee to
20 the board at the time the license is issued.

21 C. The board or the executive director may require an applicant to
22 submit to a personal interview, a physical examination or a mental evaluation
23 or any combination of these at a reasonable time and place as prescribed by
24 the board if the board determines that this is necessary to provide the board
25 adequate information regarding the applicant's ability to meet the licensure
26 requirements of this chapter. An interview may include medical knowledge
27 questions and other matters that are relevant to licensure.

28 D. The board may deny a license for any unprofessional conduct that
29 would constitute grounds for disciplinary action pursuant to this chapter or
30 as determined by a competent domestic or foreign jurisdiction.

31 E. The board may issue a license that is contingent on the applicant
32 entering into a stipulated order that may include a period of probation or a
33 restriction on the licensee's practice.

34 F. The executive director may issue licenses to applicants who meet
35 the requirements of this section.

36 G. A person whose license has been revoked, denied or surrendered in
37 this or any other state may apply for licensure not sooner than two years
38 after the revocation, denial or surrender.

39 H. A license issued pursuant to this section is valid for the
40 remainder of the calendar year in which it was issued, at which time it is
41 eligible for renewal.

42 Sec. 7. Section 32-1829, Arizona Revised Statutes, is amended to read:
43 32-1829. Training permits; issuance of permits

44 A. The board ~~shall~~ MAY grant a one year renewable training permit to a
45 person participating in a teaching hospital's accredited internship,

1 residency or clinical fellowship training program to allow that person to
 2 ~~function~~ PRACTICE MEDICINE only in the supervised setting of that
 3 program. Before the board issues the permit, the person shall: ~~comply with~~
 4 ~~the applicable registration requirements of this article and~~

5 1. SUBMIT AN APPLICATION DEMONSTRATING THAT, EXCEPT FOR THE TRAINING
 6 PROGRAM APPLIED FOR, THE PERSON MEETS THE REQUIREMENTS FOR LICENSURE
 7 PRESCRIBED IN SECTION 32-1822.

8 2. Pay the fee prescribed in this chapter.

9 B. If a ~~person~~ PERMITTEE who is participating in a teaching hospital's
 10 accredited internship, residency or clinical fellowship training program must
 11 repeat or make up time in the program due to resident progression or for
 12 other reasons, the board may grant that person ~~a~~ AN EXTENSION OF THE
 13 training permit if requested to do so by the program's director of medical
 14 education or a person who holds an equivalent position. The EXTENDED permit
 15 limits the permittee to practicing only in the supervised setting of that
 16 program FOR A PERIOD OF TIME SUFFICIENT TO REPEAT OR MAKE UP THE TRAINING.

17 C. The board ~~shall~~ MAY grant a training permit to a person who is not
 18 licensed in this state and who is participating in a short-term training
 19 program of four months or less FOR CONTINUING MEDICAL EDUCATION conducted in
 20 an approved school of osteopathic medicine or a hospital that has an
 21 accredited hospital internship, residency or clinical fellowship training
 22 program in this state ~~for the purpose of continuing medical education.~~
 23 Before the board issues the permit, the person shall: ~~comply with the~~
 24 ~~applicable registration requirements of this article and~~

25 1. SUBMIT AN APPLICATION DEMONSTRATING THAT THE PERSON MEETS THE
 26 REQUIREMENTS FOR LICENSURE PRESCRIBED IN SECTION 32-1822.

27 2. Pay the fee prescribed in this chapter.

28 D. A permittee is subject to the disciplinary provisions of this
 29 chapter.

30 E. THE EXECUTIVE DIRECTOR MAY ISSUE A PERMIT TO AN APPLICANT WHO MEETS
 31 THE REQUIREMENTS OF THIS CHAPTER.

32 F. THE BOARD MAY ISSUE A PERMIT OR MAY:

33 1. ISSUE A PERMIT THAT IS CONTINGENT ON THE APPLICANT ENTERING INTO A
 34 STIPULATED AGREEMENT THAT MAY INCLUDE A PERIOD OF PROBATION OR A RESTRICTION
 35 ON THE PERMITTEE'S PRACTICE.

36 2. DENY A PERMIT TO AN APPLICANT WHO DOES NOT MEET THE REQUIREMENTS OF
 37 THIS CHAPTER.

38 Sec. 8. Title 32, chapter 17, article 2, Arizona Revised Statutes, is
 39 amended by adding section 32-1832, to read:

40 32-1832. Retired license; waiver of fees; reinstatement;
 41 limited license; volunteer work

42 A. THE BOARD MAY WAIVE A PHYSICIAN'S BIENNIAL RENEWAL FEE IF THE
 43 PHYSICIAN HAS PAID ALL PAST FEES AND PRESENTS AN AFFIDAVIT TO THE BOARD
 44 STATING THAT THE PHYSICIAN HAS PERMANENTLY RETIRED FROM THE PRACTICE OF
 45 OSTEOPATHIC MEDICINE.

1 B. A RETIRED PHYSICIAN WHOSE BIENNIAL FEE HAS BEEN WAIVED BY THE BOARD
2 PURSUANT TO THIS SECTION IS NOT REQUIRED TO COMPLY WITH ANY CONTINUING
3 MEDICAL EDUCATION REQUIREMENTS OF THIS CHAPTER.

4 C. A RETIRED PHYSICIAN WHO HAS HAD THE BIENNIAL RENEWAL FEE WAIVED BY
5 THE BOARD PURSUANT TO THIS SECTION AND WHO ENGAGES IN THE PRACTICE OF
6 OSTEOPATHIC MEDICINE IS SUBJECT TO THE SAME PENALTIES THAT ARE IMPOSED
7 PURSUANT TO THIS CHAPTER ON A PERSON WHO PRACTICES MEDICINE WITHOUT A LICENSE
8 OR WITHOUT BEING EXEMPT FROM LICENSURE.

9 D. THE BOARD MAY REINSTATE A RETIRED PHYSICIAN TO ACTIVE STATUS ON
10 PAYMENT OF THE BIENNIAL RENEWAL FEE AND PRESENTATION OF EVIDENCE SATISFACTORY
11 TO THE BOARD THAT THE PHYSICIAN MEETS THE QUALIFICATIONS PRESCRIBED PURSUANT
12 TO SECTION 32-1822.

13 E. IF AN APPLICANT FOR REINSTATEMENT TO ACTIVE STATUS HAS NOT BEEN
14 LICENSED AND ACTIVELY PRACTICING IN ANOTHER JURISDICTION OF THE UNITED STATES
15 OR CANADA IN THE THREE YEARS IMMEDIATELY PRECEDING THE APPLICATION, THE BOARD
16 MAY ISSUE A LIMITED LICENSE THAT REQUIRES GENERAL OR DIRECT SUPERVISION BY
17 ANOTHER LICENSED OSTEOPATHIC PHYSICIAN FOR NOT MORE THAN ONE YEAR.

18 F. A RETIRED PHYSICIAN WHO HAS HAD THE BIENNIAL RENEWAL FEE WAIVED BY
19 THE BOARD PURSUANT TO THIS SECTION MAY PERFORM VOLUNTEER WORK OF NOT MORE
20 THAN TEN HOURS EACH WEEK AND MAY TEACH OR PROVIDE INSTRUCTION TO ACCREDITED
21 OSTEOPATHIC SCHOOLS AND INSTITUTIONS.

22 Sec. 9. Section 32-1855, Arizona Revised Statutes, is amended to read:
23 32-1855. Disciplinary action; duty to report; hearing; notice;
24 independent medical examinations; surrender of
25 license

26 A. The board on its own motion may investigate any information that
27 appears to show that an osteopathic physician and surgeon is or may be guilty
28 of unprofessional conduct or is or may be mentally or physically unable
29 safely to engage in the practice of medicine. Any osteopathic physician or
30 surgeon or the Arizona osteopathic medical association or any health care
31 institution as defined in section 36-401 shall, and any other person may,
32 report to the board any information the physician or surgeon, association,
33 health care institution or other person may have that appears to show that an
34 osteopathic physician and surgeon is or may be guilty of unprofessional
35 conduct or is or may be mentally or physically unable safely to engage in the
36 practice of medicine. The board shall notify the doctor about whom
37 information has been received as to the content of the information as soon as
38 reasonable after receiving the information. Any person who reports or
39 provides information to the board in good faith is not subject to civil
40 damages as a result of that action. If requested the board shall not
41 disclose the informant's name unless it is essential to the disciplinary
42 proceedings conducted pursuant to this section. It is an act of
43 unprofessional conduct for any osteopathic physician or surgeon to fail to
44 report as required by this section. The board shall report any health care
45 institution that fails to report as required by this section to that

1 institution's licensing agency. A person who reports information in good
2 faith pursuant to this subsection is not subject to civil liability.

3 B. The board may require a physician under investigation pursuant to
4 subsection A of this section to be interviewed by the board or its
5 representatives. The board or the executive director may require a licensee
6 who is under investigation pursuant to subsection A of this section to
7 undergo at the licensee's expense any combination of medical, physical or
8 mental examinations the board finds necessary to determine the physician's
9 competence.

10 C. If the board finds, based on the information it received under
11 subsections A and B of this section, that the public health, safety or
12 welfare imperatively requires emergency action, ~~and~~ and incorporates a finding
13 to that effect in its order, the board may order a summary suspension of a
14 license pending proceedings for revocation or other action. If an order of
15 summary suspension is issued, the licensee shall also be served with a
16 written notice of complaint and formal hearing setting forth the charges made
17 against the licensee and is entitled to a formal hearing on the charges
18 pursuant to title 41, chapter 6, article 10. Formal proceedings shall be
19 promptly instituted and determined.

20 D. If, after completing its investigation, the board finds that the
21 information provided pursuant to this section is not of sufficient
22 seriousness to merit direct action against the physician's license, it may
23 take any combination of the following actions:

24 1. Dismiss if, in the opinion of the board, the information is without
25 merit.

26 2. File a letter of concern.

27 3. In addition to the requirements of section 32-1825, require
28 continuing medical education on subjects and within a time period determined
29 by the board.

30 4. Issue a nondisciplinary order requiring the licensee to complete a
31 prescribed number of hours of continuing education in an area or areas
32 prescribed by the board to provide the licensee with the necessary
33 understanding of current developments, skills, procedures or treatment.

34 5. **ISSUE A NOTICE OF DE MINIMIS VIOLATION.**

35 E. If, in the opinion of the board, it appears **THAT** information
36 provided pursuant to this section is or may be true, the board may request an
37 investigative hearing with the physician concerned. At an investigative
38 hearing the board may receive and consider sworn statements of persons who
39 may be called as witnesses in a formal hearing and other pertinent
40 documents. Legal counsel may be present and participate in the meeting. If
41 the physician refuses the request or if the physician accepts the request and
42 the results of the investigative hearing indicate suspension of more than
43 twelve months or revocation of the license may be in order, a complaint shall
44 be issued and an administrative hearing shall be held pursuant to title 41,
45 chapter 6, article 10. If, after the investigative hearing and a mental,

1 physical or medical competence examination as the board deems necessary, the
2 board finds the information provided pursuant to this section to be true but
3 not of sufficient seriousness to merit suspension or revocation of the
4 license, it may take any of the following actions:

5 1. Dismiss if, in the opinion of the board, the information is without
6 merit.

7 2. File a letter of concern.

8 3. In addition to the requirements of section 32-1825, require
9 continuing medical education on subjects and within a time period determined
10 by the board.

11 4. Issue a decree of censure, which constitutes an official action
12 against a physician's license.

13 5. Fix a period and terms of probation best adapted to protect the
14 public health and safety and rehabilitate or educate the physician
15 concerned. Any costs incidental to the terms of probation are at the
16 physician's own expense.

17 6. Restrict or limit the physician's practice in a manner and for a
18 time determined by the board.

19 7. Suspend the physician's license for not more than twelve months.

20 8. Impose a civil penalty of not to exceed five hundred dollars for
21 each violation of this chapter.

22 9. Issue a nondisciplinary order requiring the licensee to complete a
23 prescribed number of hours of continuing education in an area or areas
24 prescribed by the board to provide the licensee with the necessary
25 understanding of current developments, skills, procedures or treatment.

26 10. **ISSUE A NOTICE OF DE MINIMIS VIOLATION.**

27 11. **ISSUE AN ADMINISTRATIVE WARNING.**

28 F. If, in the opinion of the board, it appears the charge is of such
29 magnitude as to warrant suspension for more than twelve months or revocation
30 of the license, the board shall immediately initiate formal revocation or
31 suspension proceedings pursuant to title 41, chapter 6, article 10. The
32 board shall notify a licensee of a complaint and hearing by certified mail
33 addressed to the licensee's last known address on record in the board's
34 files.

35 G. If the physician wishes to be present at the investigative or
36 administrative hearing in person or by representation, or both, the physician
37 shall file with the board an answer to the charges in the complaint. The
38 answer shall be in writing, verified under oath and filed within twenty days
39 after service of the summons and complaint.

40 H. A physician who complies with subsection G of this section may be
41 present at the hearing in person with counsel and witnesses.

42 I. A physician who, after an investigative or administrative hearing,
43 is found to be guilty of unprofessional conduct or is found to be mentally or
44 physically unable safely to engage in the practice of osteopathic medicine is
45 subject to any combination of censure, probation, suspension of license,

1 revocation of license, an order to return patient fees, imposition of hearing
2 costs, imposition of a civil penalty of not to exceed five hundred dollars
3 for each violation for a period of time, or permanently, and under conditions
4 the board deems appropriate for the protection of the public health and
5 safety and just in the circumstances. The board may charge the costs of an
6 investigative or administrative hearing to the licensee if pursuant to that
7 hearing the board determines that the licensee violated this chapter or board
8 rules.

9 J. If the board acts to modify a physician's prescription writing
10 privileges, it shall immediately notify the state board of pharmacy and the
11 federal drug enforcement administration in the United States department of
12 justice of the modification.

13 K. The board shall report allegations of evidence of criminal
14 wrongdoing to the appropriate criminal justice agency.

15 L. Notice of a complaint and administrative hearing is effective when
16 a true copy of the notice is sent by certified mail to the licensee's last
17 known address of record in the board's files and is complete on the date of
18 its deposit in the mail. The board shall hold an administrative hearing
19 within one hundred twenty days after that date.

20 M. The board may accept the surrender of an active license from a
21 licensee who admits in writing to having committed an act of unprofessional
22 conduct or to having violated this chapter or board rules.

23 Sec. 10. Section 32-1861, Arizona Revised Statutes, is amended to
24 read:

25 32-1861. Substance abuse treatment and rehabilitation program:
26 private contract; funding

27 A. The board may establish a **CONFIDENTIAL** program for the treatment
28 and rehabilitation of licensees who are impaired by substance abuse. This
29 program may include education, intervention, therapeutic treatment and
30 posttreatment monitoring and support.

31 B. The board may contract with other organizations to operate the
32 program established pursuant to subsection A of this section. A contract
33 with a private organization shall include the following requirements:

34 1. Periodic reports to the board regarding treatment program activity.
35 2. Release to the board on demand of all treatment records.
36 3. Quarterly reports to the board regarding each physician's diagnosis
37 and prognosis and recommendations for continuing care, treatment and
38 supervision.

39 4. Immediate reporting to the board of the name of an impaired
40 physician who the treating organization believes to be incapable of safely
41 practicing medicine.

42 C. The board may allocate an amount of not more than twenty dollars
43 from each fee it collects from the renewal of licenses pursuant to section
44 32-1826 for the administration of the program established by this section.

1 Sec. 11. Section 32-1871, Arizona Revised Statutes, is amended to
2 read:

3 32-1871. Dispensing of drugs and devices; conditions

4 A. An osteopathic physician may dispense drugs and devices kept by the
5 physician if:

6 1. All drugs are dispensed in packages labeled with the following
7 information:

8 (a) The dispensing physician's name, address and telephone number.

9 (b) The date the drug is dispensed.

10 (c) The patient's name.

11 (d) The name and strength of the drug, directions for its use and any
12 cautionary statements.

13 2. The dispensing physician enters into the patient's medical record
14 the name and strength of the drug dispensed, the date the drug is dispensed
15 and the therapeutic reason.

16 3. The dispensing physician keeps all drugs in a locked cabinet or
17 room, controls access to the cabinet or room by a written procedure and
18 maintains an ongoing inventory of its contents.

19 4. The dispensing physician **ANNUALLY** registers with the board to
20 dispense drugs and devices ~~and pays the registration fee prescribed pursuant~~
21 ~~to section 32-1826.~~

22 5. **THE DISPENSING PHYSICIAN PAYS THE REGISTRATION FEE PRESCRIBED BY**
23 **THE BOARD PURSUANT TO SECTION 32-1826. THIS PARAGRAPH DOES NOT APPLY IF THE**
24 **PHYSICIAN IS DISPENSING IN A NONPROFIT PRACTICE AND NEITHER THE PATIENT NOR A**
25 **THIRD PARTY PAYS OR REIMBURSES THE PHYSICIAN OR THE NONPROFIT PRACTICE FOR**
26 **THE DRUGS OR DEVICES DISPENSED.**

27 6. **THE DISPENSING PHYSICIAN LABELS DISPENSED DRUGS AND DEVICES AND**
28 **STORES THEM ACCORDING TO RULES ADOPTED BY THE BOARD.**

29 B. Except in an emergency situation, a physician who dispenses drugs
30 ~~for a profit~~ without being registered by the board to do so is subject to a
31 civil penalty by the board of not less than three hundred dollars and not
32 more than one thousand dollars for each transaction and is prohibited from
33 further dispensing for a period of time as prescribed by the board.

34 C. Prior to dispensing a drug pursuant to this section, the patient
35 shall be given a written prescription on which appears the following
36 statement in bold type:

37 "This prescription may be filled by the prescribing physician or
38 by a pharmacy of your choice."

39 D. A physician shall dispense ~~for profit~~ only to the physician's
40 patient and only for conditions being treated by that physician. ~~The~~
41 ~~physician shall provide direct supervision of a nurse or attendant involved~~
42 ~~in the dispensing process. In this subsection, "direct supervision" means~~
43 ~~that a physician is present and makes the determination as to the legitimacy~~
44 ~~or the advisability of the drugs or devices to be dispensed.~~

1 E. The board shall enforce this section and shall establish rules
2 regarding labeling, record keeping, storage and packaging of drugs that are
3 consistent with the requirements of chapter 18 of this title. The board may
4 conduct periodic inspections of dispensing practices to assure compliance
5 with this section and applicable rules.

6 ~~F. For the purposes of this section, "dispense" means the delivery by~~
7 ~~an osteopathic physician of a prescription drug or device to a patient,~~
8 ~~except for samples packaged for individual use by licensed manufacturers or~~
9 ~~repackagers of drugs, and includes the prescribing, administering, packaging,~~
10 ~~labeling and security necessary to prepare and safeguard the drug or device~~
11 ~~for delivery.~~

12 F. IF A PHYSICIAN FAILS TO RENEW A REGISTRATION TO DISPENSE OR CEASES
13 TO DISPENSE FOR ANY REASON, WITHIN THIRTY DAYS THAT PHYSICIAN MUST NOTIFY THE
14 BOARD IN WRITING OF THE REMAINING INVENTORY OF DRUGS AND DEVICES AND THE
15 MANNER IN WHICH THEY WERE DISPOSED.